

MINUTES OF THE TOWN BOARD MEETING OF NOVEMBER 14, 2012

PRESENT:           Supervisor   Teresa Dean  
                  Council       Edward Fairbrother  
                                 Mike Saglibene  
                                 Mike Smith  
                  Attorney     Fred Ahrens  
                  Town Clerk   Linda Cross

ABSENT:           Council       Andy Gillette

Supervisor Dean called the Town Board meeting to order at 4:30 p.m. and requested those present to participate in the Pledge of Allegiance.

**PUBLIC HEARING:**                   4:30 p.m.       Proposed Local Law to override the Tax Levy Limit

Supervisor Dean called the public hearing to order and read the legal notice duly advertised in the Elmira Star Gazette on November 5, 2012, which allowed and considered public comments regarding the proposed Local Law to override the Tax Levy Limit.

IN FAVOR:           None

OPPOSITION:       None

COMMENTS:       None

Since there were no further comments, Supervisor Dean closed the Local Law to override the Tax Levy Limit public hearing at 4:32 p.m.

**PUBLIC HEARING:**                   4:30 p.m.       Proposed Local Law setting certain salaries

Supervisor Dean called the public hearing to order and read the legal notice duly advertised in the Elmira Star Gazette on November 5, 2012, which allowed and considered public comments regarding the proposed Local Law setting certain salaries

IN FAVOR:           None

OPPOSITION:       None

COMMENTS:       None

Since there were no further comments, Supervisor Dean closed the proposed Local Law Setting certain Salaries Public Hearing at 4:33 p.m.

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**PUBLIC HEARING:** 4:30 p.m. 2013 Preliminary Budget

Supervisor Dean called the public hearing to order and read the legal notice duly advertised in the Elmira Star Gazette on November 5, 2012, which allowed and considered public comments regarding the proposed 2013 Preliminary Budget.

IN FAVOR: None

OPPOSITION: None

COMMENTS: Judge Gush came before the Town Board for a pay raise for the Court Clerk, stating how important an increase in salary for their full time court clerk, and all that she does and is accountable for along with how she goes above and beyond her duties.

Judy Kadlec, 26 Landau Drive, commented she's hoping there where some extra cost deleted from different parts of the Town Budget.

Since there were no further comments, Supervisor Dean closed the 2013 Preliminary Budget, Public Hearing at 4:43 p.m.

**PUBLIC HEARING:** 4:30 p.m. Special Use Permit Milton Cat

Supervisor Dean called the public hearing to order and read the legal notice duly advertised in the Elmira Star Gazette on November 5, 2012, which allowed and considered public comments regarding the proposed Special Use Permit Milton Cat.

IN FAVOR: Tom Gorman, 2445 State Route 352, spoke on behalf of the Big Flats Business Association on how they support approval of the Special Use Permit that Milton Cat has requested.

OPPOSITION: Chris Thorborg, questioned if land scaping plans for the front and are still planned, is there alternate plan for wild life and extra traffic, will there be a speed decrease, and will there be need for a traffic light. She also asked if the Chemung County Planning Board meeting on November 15<sup>th</sup> was open to the public.

COMMENTS: Jane King, 15 Kelley Dr. mentioned, are they going to want sewer and water and if so where will they get some?

Since there were no further comments, Supervisor Dean closed the Special Use Permit Milton Cat, Public Hearing at 4:45 p.m.

**CONCERNS OF THE PEOPLE** - Judith Kadlec, 26 Landau Drive, inquired about the payment on the website Dirt Seed getting paid \$2,000 and ask if this was in addition to what was approved to get paid or is this partial payment. Judy also questioned "when the town board is asked a questions when can we expect a response to them.

Supervisor Dean replied to Judith Kadlec that the \$2,000 was part of the original agreement, it was not an additional payment, and questions will be answered, but we do not answer questions

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during a public hearing, we listen, so when we get to those agenda items the comments will be discussed.

### **REPORTS**

Supervisor Dean stated the following reports for October 2012 have been received and are on file in the office of the Town Clerk:

Town Clerk's Monthly Report, Supervisor's Fund Balance Report  
Youth Department Monthly Report, Department of Public Works  
Monthly Report, Assessor's Monthly Report, Code and Planning  
Monthly Report, SPCA Monthly Reports, Senior Trip Annual  
Report.

Councilperson Fairbrother commented on the Senior Trip report, and what a great job Al and Linda Redner have done and they volunteer all their time.

### **UNFINISHED BUSINESS**

#### RESOLUTION NO. 222-12 LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-C APPROVED

Resolution by: Fairbrother  
Seconded by: Smith

WHEREAS the governor and legislature of the State of New York have enacted a tax levy limit of 2% increase over the preceding year levy, and

WHEREAS the budget of the Town of Big Flats is subject to audit by the Comptroller of the State of New York for compliance with the tax levy limit, and

WHEREAS definitive guidelines and rules as to how to calculate the 2% tax limit calculation are not in place and are subject to interpretation, and

WHEREAS under the above circumstances there could be inadvertent and unintentional noncompliance subjecting the Town to adverse consequences, and

WHEREAS to avoid the aforementioned adverse consequences it is prudent to adopt the within local law, and

WHEREAS a public hearing was duly held on November 14, 2012 and all interested parties were heard, now

BE IT THEREFORE RESOLVED there is hereby presented the Local Law tentatively No. 5 of the year 2012 for the Town of Big Flats as follows:

**TOWN OF BIG FLATS**

**Local Law No. 4 for the Year 2012 to override the tax levy limit established in General Municipal Law 3-c**

**Section 1. Legislative Intent**

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Big Flats, County of Chemung pursuant to General Municipal Law § 3-c, and to allow the Town of Big Flats, County of Chemung to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed 3-C continued by the town board for the fiscal year 2013 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

**Section 2. Authority**

This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

**Section 3. Tax Levy Limit Override**

The Town Board of the Town of Big Flats, County of Chemung is hereby authorized to adopt a budget for the fiscal year 2013 that requires a real property tax levy in excess of the limit specified in General Municipal Law, §3-c.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date.**

This local law shall take effect immediately upon filing with the Secretary of State.

FURTHER RESOLVED the town board approves said Local Law to override the tax levy limit established in General Municipal Law 3-c.

CARRIED: AYES: Smith, Fairbrother, Saglibene, Dean

NAYS: None

ABSENT: Gillette

MINUTES OF THE TOWN BOARD MEETING OF NOVEMBER 14, 2012

RESOLUTION NO. 223-12

ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND  
DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF  
OFFICE FOR THE FISCAL YEAR 2013 APPROVED

Resolution by: Smith

Seconded by: Saglibene

WHEREAS pursuant to Municipal Home Law, Section 24, the Town must adopt a Local Law subject to a referendum setting the salaries of all elected officials and those officials who have a fixed term of office, and

WHEREAS the Town Board has reviewed the salaries of certain elected or appointed officials of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2013, which some individuals are presently serving mid-term, and

WHEREAS a Local Law Tentatively No. 4 for the Year 2012, establishing the annual salaries of such appointed officials for the Fiscal Year 2013, and

WHEREAS a public hearing was duly held on November 14, 2012 and all interested parties where heard, now

THEREFORE, BE IT RESOLVED the Town Board approves Local Law Tentatively No. 4 for the Year 2012, establishing the annual salaries of certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2013, as follows:

**TOWN OF BIG FLATS  
LOCAL LAW NO. 5 FOR THE YEAR 2012**

**A LOCAL LAW** establishing the annual salaries of certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2013.

Be it enacted by the Town Board of the Town of Big Flats as follows:

**SECTION 1:** Except where inconsistent by operation of law due to prohibitions of increases of compensation during a fixed term of office for Town officers and employees as provided in Municipal Home Rule Law §24 be, and the same hereby is, applicable to officers and employees having a fixed term of office, whether elected or appointed, as are any and all resolutions of the Town of Big Flats Town Board relative to rights and entitlements of Town executive and management personnel.

**SECTION 2:** Effective with the first town payroll for the Town Fiscal Year 2013 the annual salaries of the certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office are hereby established for the Fiscal Year 2013 as follows, to wit:

MINUTES OF THE TOWN BOARD MEETING OF NOVEMBER 14, 2012

RESOLUTION NO. 223-12, ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2013 APPROVED  
continued

<b>TITLE</b>	<b>2012 SALARY</b>	<b>2013 SALARY</b>
Town Supervisor	\$31,000	\$31,000
Town Council (4)	\$ 7,004 each	\$ 7,004 each
Town Justice (2)	\$19,478 each	\$20,062 each
Town Clerk	\$ 35,020	\$36,071
Tax Collector	\$ 7,224	\$ 7,224
Assessor	\$38,512	\$39,668
Commissioner of Public Works	\$84,011	\$86,531

**SECTION 3:** Should any of the above positions become vacant and subsequently filled by one other than the present incumbent, the salary shall in that instance be set by the Town Board prior to filling said vacancy.

**SECTION 4:** This Local Law shall become effective, subject to a permissive referendum, fortyfive (45) days after the date of its final adoption and on the date it is duly filed in the Office of the Secretary of State of the State of New York and in accordance with the provisions of the Municipal Home Rule Law of the State of New York.

FURTHER RESOLVED the Local Law is subject to a permissive referendum of the qualified electors of the Town of Big Flats by filing of a legal petition within forty-five (45) days after it's final adoption, with the Clerk of the Town of Big Flats protesting such Local Law.

CARRIED: AYES: Smith, Fairbrother, Saglibene, Dean

NAYS: None

ABSENT: Gillette

RESOLUTION NO. 224-12  
2013 PRELIMINARY BUDGET ADOPTION APPROVED

Resolution by: Saglibene

Seconded by: Fairbrother

WHEREAS the Town Supervisor has prepared the 2013 Preliminary Budget, and

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RESOLUTION NO. 224-12, 2013 PRELIMINARY BUDGET ADOPTION APPROVED  
continued

WHEREAS a Public Hearing for said Preliminary Budget was duly held on November 14, 2012 at 4:30 p.m., and

WHEREAS for environmental purposes this is a Type II Action in accordance with SEQRA, 6NYCRR, Part 617.5(c)(20) and as such no further review is necessary, now

BE IT THEREFORE RESOLVED that the Town Board adopts the 2013 Budget as submitted on October 30, 2012, titled "Town of Big Flats 2013 Preliminary Budget".

CARRIED: AYES: Smith, Fairbrother, Saglibene, Dean  
NAYS: None  
ABSENT: Gillette

RESOLUTION NO. 225-12  
SPECIAL USE PERMIT APPROVED

Resolution by: Saglibene  
Seconded by: Fairbrother

WHEREAS the Town Planning Board has received an application from Milton Cat for heavy equipment sales and repair on Tax Parcel 66.02-2-31 located off Daniel Zenker Drive, in a the Business Neighborhood 2 (BN2) District, and

WHEREAS the use of heavy equipment sales and repair in the BN2 District pursuant to Chapter 17.12.010 of the Town Municipal Code requires Special Use Permit approval of the Town Board, and

WHEREAS a public hearing was duly held on November 14, 2012 and all interested parties were duly heard, and

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c)(20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board approves the special use permit for Milton Cat for heavy equipment sales and repair with the following conditions:

- Adhere to hours of operation, Monday – Friday 7:00 a.m. to 5:00 p.m.
- Comply with all provisions of the Town of Big Flats Municipal Code
- Final approval from the Town of Big Flats Planning Board.
- Address and adhere to any and all comments from the Chemung County Planning Board and Chemung County Commissioner of Public Works.

CARRIED: AYES: Smith, Fairbrother, Saglibene, Dean  
NAYS: None ABSENT: Gillette

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**NEW BUSINESS**

RESOLUTION NO. 226-12

CONTRACT WITH REDEC OFFERING CLASSES FOR SMALL BUSINESS OWNERS  
APPROVED

Resolution by: Smith

Seconded by: Saglibene

WHEREAS REDEC is a private non-profit organization that supports Chemung, Schuyler and Steuben counties and they are interested in offering a class dealing with small businesses, and

WHEREAS the class will offer support and information on owning a small business and assistance in finding local financial support, and

WHEREAS the Town Board determines that this class would be a benefit to our local and potential small business owners, and

WHEREAS said classes will be held in the evening beginning March 21, 2013, and

WHEREAS for environmental purposes the contracting of such services is a Type II administration action in accordance with SEQRA 6NYCRR, Part 617.5(c) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board hereby authorizes the Town Supervisor to execute a service contract with REDEC for the purpose of offering a class dealing with small businesses and assistance in finding local financial support at a cost not-to-exceed \$50.00 per attendee with 20% of fees collected or \$250 what ever is greater to be returned to the Town, and

FURTHER RESOLVED a certified copy of said resolution to provided to REDEC.

CARRIED: AYES: Smith, Fairbrother, Saglibene, Dean

NAYS: None

ABSENT: Gillette

RESOLUTION NO.227-12

PART-TIME SECRETARY AT THE BIG FLATS COMMUNITY CENTER APOINTED

Resolution by: Smith

Seconded by: Saglibene

WHEREAS there exists a vacancy in the position of Secretary at the Town of Big Flats Community Center, and

WHEREAS the Town Board had determined that the position should remain a part-time position, and



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RESOLUTION NO.227-12, PART-TIME SECRETARY AT THE BIG FLATS COMMUNITY CENTER APOINTED continued

WHEREAS the Director of Recreation reviewed the applications submitted for the Director of Recreation position, and

WHEREAS the Director conducted interviews of five potential candidates, and

WHEREAS the Director recommends the appointment of Margaret Lalomia to the vacant position of Secretary for the Community Center, and

WHEREAS for environmental purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board appoints Margaret Lalomia as the Secretary, part-time for the Community Center with a probationary period for not less than 8 weeks nor to exceed 26 weeks at the rate of \$10.50 per hour, and

FURTHER RESOLVED the Town Supervisor is authorized to complete the required Report of Personnel Change (RPC).

CARRIED: AYES: Smith, Saglibene, Dean  
NAYS: Fairbrother  
ABSENT: Gillette

RESOLUTION NO. 228-12  
NOVEMBER 14, 2012 COMMUNICATIONS LOG APPROVED

Resolution by: Saglibene  
Seconded by: Fairbrother

BE IT RESOLVED that the following communications were received, accepted and filed by the Town Clerk of the Town of Big Flats and referred to the appropriate Department Head for information and/or action:

October 23, 2012

Chemung County Health Department Environmental Health Services – RE: Monitoring Routine.  
*Referred to: Commissioner of Public Works, Town Board, Attorney for the Town and filed with the Town Clerk.*

October 30, 2012

New York State Department of Environmental Conservation – RE: Permit Authorization and NYSDEC Approval – Bowers Topsoil Pit. *Referred to: filed with the Town Clerk.*

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RESOLUTION NO. 228-12, NOVEMBER 14, 2012 COMMUNICATIONS LOG APPROVED  
continued

November 1, 2012

Time Warner Cable – RE: Agreements with Programmers Update. *Referred to: filed with the Town Clerk.*

November 2, 2012

Time Warner Cable – RE: Switched Digital Video. *Referred to: filed with the Town Clerk.*

November 5, 2012

Chemung County Soil & Water Conservation District and Stormwater Coalition – RE: Michael Ross Stream Concerns. *Referred to: Commissioner of Public Works, Town Board, Attorney for the Town and filed with the Town Clerk.*

Association of Towns – RE: 2013 Training School & Annual Meeting Notification. *Referred to: Town Board, Attorney for the Town and filed with the Town Clerk.*

November 6, 2012

Time Warner Cable – RE: Sports Pass Tier. *Referred to: filed with the Town Clerk.*

CARRIED: AYES: Smith, Fairbrother, Saglibene, Dean  
NAYS: None  
ABSENT: Gillette

EXECUTIVE SESSION: Councilperson Fairbrother made a motion, seconded by Councilperson Smith, to enter into Executive Session at 5:03 p.m. to discuss particular job performance of a specific individual employee for the Town and litigation. He also asked the Commissioner of Public Works to attend the executive session. All in favor except Councilperson Gillette was absent, motion carried.

Supervisor Dean reconvened the Town Board meeting at 5:35 p.m.

Councilperson Fairbrother made a motion, seconded by Councilperson Smith to adjourn the Town Board meeting at 5:36p.m. All in favor except Councilperson Gillette was absent, motion carried.

Date approved: \_\_\_\_\_

Linda J. Cross  
Town Clerk